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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,447	05/23/2006	Stuart Greenhalgh	BT/3-22349/A/PCT	4196

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Ciba Corporation
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EXAMINER

MACAULEY, SHERIDAN R

ART UNIT	PAPER NUMBER
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1651

NOTIFICATION DATE	DELIVERY MODE
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04/02/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/580,447</p>	<p>Applicant(s) GREENHALGH ET AL.</p>	
	<p>Examiner SHERIDAN R. MACAULEY</p>	<p>Art Unit 1651</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 09 March 2010. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-12 and 14-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.

/Ruth A. Davis/
Primary Examiner, Art Unit 1651

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been considered but they have not been found to be persuasive. Applicant argues that there is no teaching or suggestion in the prior art. to indicate that polymerization may occur prior to purification in the methods disclosed therein. However, Seki teaches that polymerization of solutions of acrylamide will occur under many conditions. Even if, as applicant argues, polymerization did not occur in the examples disclosed in Yamada, Seki teaches that unstabilized acrylamide solutions are likely to polymerize. Yamada does not teach stabilizing the fermentation solution against polymerization. It is therefore likely that, even if the solutions are stabilized in the reference of Yamada, one of ordinary skill in the art would not stabilize the solution when using the teachings disclosed in the reference. This would, in the course of routine experimentation, result in polymerization, which is likely to occur, as discussed in Seki. Although applicant argues that the polymer of Seki does not have the claimed viscosity, no evidence has been provided of this assertion. The viscosity range recited in the instant range is "at least 3 dl/g measured using a suspended level visometer in 1 M sodium chloride at 25 degrees C." Thus, any polymer that is more viscous than the value in the claims would meet the claim limitation. It is unclear whether applicant's assertion that "popcorn polymer does not swell in solvents" is meant to imply that the polymer of Seki is more or less viscous than the claim limitation, or whether the viscosity would not be assessed in the solvent recited in the claim. More clarity would be required to fully assess applicant's argument that the polymer of Seki does not meet the claim limitations. Although applicant argues that the claimed invention provides the surprising result that polymerization may occur in unpurified media, it is noted that this feature was known in the art, as taught by Seki. Therefore, applicant's arguments have been considered, but they have not been found to be persuasive.

Continuation of 13. Other: There are no claim amendments in the newly filed claims and thus the presently filed claim set has been entered.